

City Council Meeting Minutes

**October 15, 2019
City Hall, Council Chambers
749 Main Street
7:00 PM**

Call to Order – Mayor Muckle called the meeting to order at 7:00 p.m.

Roll Call was taken and the following members were present:

City Council: *Mayor Robert Muckle
Mayor Pro Tem Jeff Lipton
Councilmember Jay Keany
Councilmember Chris Leh
Councilmember Susan Loo
Councilmember Dennis Maloney
Councilmember Ashley Stolzmann*

Staff Present: *Heather Balser, City Manager
Megan Davis, Deputy City Manager
Rob Zuccaro, Planning & Building Safety Director
Felicity Selvoski, Planner I
Lisa Ritchie, Senior Planner
Stan Zemler, Interim Economic Development Director
Kevin Watson, Finance Director
Carol Hanson, Deputy City Clerk*

Others Present: *Kathleen Kelly, City Attorney*

PLEDGE OF ALLEGIANCE

All rose for the pledge of allegiance.

APPROVAL OF AGENDA

Mayor Muckle called for changes to the agenda and hearing none, moved to approve the agenda, seconded by Councilmember Stolzmann. All in favor.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

No comments.

APPROVAL OF THE CONSENT AGENDA

MOTION: Mayor Muckle moved to approve the consent agenda, seconded by Councilmember Maloney. All in favor.

- A. *Approval of Bills***
- B. *Approval of Minutes: October 1, 2019***
- C. *Award Contract to Arrow J. Landscape & Design, Inc. for the 2019 Coyote Run Open Space Trail Connections Project***
- D. *Approval of 2020 Budget for Urban Revitalization District***
- E. *Approval of Resolution No. 35, Series 2019 – A Resolution Approving a Proposed 2020 Operating Plan and Budget of the Main Street Louisville Business Improvement District***

COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA

None heard.

CITY MANAGER'S REPORT

City Manager Balser noted staff included in the packet a quarterly report from the Louisville Revitalization Commission for the third quarter of 2019. She noted there is a public open house to meet the Economic Vitality Director candidates on October 17th 6:00 to 7:00 PM in the Library and urged all to attend and provide feedback.

REGULAR BUSINESS

PROCLAMATION – NO PLACE FOR HATE

Counselor David Auday from Louisville Middle School (LMS) was in attendance at the Council meeting with some students who asked Council to join them in the No Place for Hate campaign. The students reported on how they felt it made the environment at LMS better. Mayor Muckle presented a proclamation in conjunction with the No Place for Hate campaign at Louisville Middle School.

RESOLUTION NO. 36, SERIES 2019 – A RESOLUTION APPROVING A BUSINESS ASSISTANCE AGREEMENT WITH MEDTRONIC, INC. FOR AN ECONOMIC DEVELOPMENT PROJECT IN THE CITY OF LOUISVILLE

Mayor Muckle introduced the item and noted there is a land use application that will be considered at a future meeting. This item is only for the proposed business assistance package.

City Manager Heather Balser reviewed the proposed business assistance package:

- Medtronic, Inc. is a medical technology leader, working to alleviate pain, restore health and extend lives
- Planning relocation and expansion of some of the Company's business within Colorado
 - Currently 2,000 existing Colorado jobs, 500 employees in Louisville
 - 2,300-2,500 jobs in Louisville by 2022
 - 3,000 or more employees within the first 5 years
 - Wages above the Boulder County average
- Project would build new 450,000-500,000 square foot phased campus on 90-100 acres
- Build on previous ConocoPhillips site
- Anticipate construction to begin 2020
- Anticipate construction in 3 phases, with final phase to be completed June-October 2022
- Multiple states currently under review by the company including Minnesota and Tennessee
- \$23,000,000 in tenant improvements
 - \$2,940,000 paid in City Permit Fees and Building Use Tax
 - \$383,000 of amount is for Open Space, Historic Preservation and Rec Center purposes
- \$15,000,000 in equipment purchases
 - \$548,000 in Consumer Use Tax
 - \$98,000 of amount is for Open Space, Historic Preservation and Rec Center purposes

Proposed Assistance:

- 50% rebate of City Building Permit Fees
 - \$392,000 value
- 50% rebate of Building Use Taxes
 - \$885,000 value
- 40% rebate of Consumer Use Taxes
 - \$180,000 value
- Total Proposed = \$1,457,700

Staff recommends approval of this Resolution approving a Business Assistance Package with Medtronic, Inc.

Councilmember Keany confirmed the rebate is only on the General Fund and does not include the tax numbers mentioned for Open Space, Historic Preservation, and Rec Center purposes.

Lisa Hough with Metro Denver Economic Development Corporation noted the incentives offered by the State. On August 15, 2019 the State approved \$24.8 million in performance based job growth incentive taxes over an eight year period. The incentive is

contingent upon the creation of up to 1,000 net new full time jobs at a minimum average annual wage equal or greater to the average annual wage in Boulder County. The company will need to maintain those for over one year before any credits become available.

James Driessen, Vice President of Medtronic Global Facilities, noted Medtronic and their employees have been in the Colorado area for nearly three decades supporting the mission to alleviate pain, restore health, and extend life. They have been a member of the Louisville community for many years and know it is a great place to live and work. He noted Medtronic looks forward to evaluating the potential of increasing their presence in Louisville. He appreciated Council's consideration of this assistance package and hoped the relationship can continue.

Public Comments

Don Brown, 505 Grant Ave., stated he thinks this was a wonderful opportunity for the City of Louisville. Medtronic has been a great part of this community. Incentive plans can be challenging but he felt this fits right. It is conditional on performance directives that must be met, high wage jobs, high volume of jobs and likely spinoffs from this organization. He encouraged Council to move this forward.

Mark Oberholzer, chairman of Business Retention and Development Committee (BRaD), said BRaD feels the business assistance packages are a good tool to encourage businesses to come to Louisville and they encourage Council to use the tools as they see fit.

Maxine Most, 640 W. Linden St., stated she doesn't think there was a cost benefit for the City and asked if any analysis had been done. She wanted it considered with hard data not just feelings and ideas.

Council Comments

Councilmember Maloney appreciated the public comments and emails. One suggested an article to read and it talked about when assistance packages actually pay off. The property being considered has been vacant for a long time and this will pay off. He felt this was the right type of opportunity to encourage with business assistance.

Councilmember Leh recited the criteria for proposed business assistance packages. He felt this met many of the criteria and thought it would bring high paying jobs, growing industry, and other communities in Colorado would support this. He thought it would be a mistake to think Medtronic would come to Louisville without this assistance package. This is not a land use decision which will be measured by different criteria. This is not an amount of money that will come out of the General Fund; this will be rebates with some exclusions of certain taxes. The rebates will only be given when the City sees the money.

Councilmember Loo remembered a short time ago there was concern Medtronic would leave town. Medtronic is a primary employer par excellence. She noted this gives away money to get money and noted commercial property tax is four times higher than residential.

Mayor Muckle noted he has no financial interest in Medtronic but uses their product on a daily basis and they make good equipment. He said this will pay off right away. He asked Medtronic to stay in Louisville.

Mayor Muckle moved to approve Resolution No. 36, Series 2019, seconded by Councilmember Keany.

Motion passed by unanimous roll call vote.

DISCUSSION/DIRECTION – REQUEST FOR PROPOSALS FOR RELOCATION AND REHABILITATION OF MINER’S CABINS

Planner Selvoski stated staff is seeking feedback and a recommendation from City Council regarding the draft Request for Proposal (RFP) for the relocation and rehabilitation of the Lee Avenue Miner’s Cabins. The Cabins were previously moved in 2018 from the Miner’s Field neighborhood to City Shops while the City determined a permanent home for the structures. At the March 5, 2019 meeting, City Council selected the Miner’s Field site as the preferred location for the Cabins. Council also directed staff to terminate the existing contract with Summit Construction/Humphries Poli and draft a new RFP for the remaining phases of the project. Staff drafted the RFP for engineering, design, relocation and construction services to relocate and rehabilitate the historic Miners Cabins.

The proposed project has been structured in two phases:

1. Phase One: Cabin relocation to Miner’s Field, including site preparation.
2. Phase Two: Cabin rehabilitation and then the museum will have the responsibility of taking care of them and using them for their programming.

Based on Council direction, staff also included language prioritizing the use of volunteer participation throughout the project: *“The City requests the Contractor provide meaningful opportunities for community volunteers to assist in the relocation and rehabilitation work. The Contractor will need to provide a plan for volunteer participation, including how volunteers will be supervised and what elements of the project to which volunteers will be able to contribute.”*

Additionally, staff believes the RFP is written so a volunteer group could bid on the project if they desired.

The Historic Preservation Commission reviewed the draft RFP and recommended approval. Staff recommends approval.

Councilmember Loo asked about the City providing liability insurance for volunteers. Director Zuccaro thought the volunteers would be covered. City Attorney Kelly noted that was fairly common but could follow up with our broker.

Councilmember Loo asked if a private contractor would have problems with covering volunteers. Director Zuccaro noted the City wouldn't provide insurance for the professionals but perhaps could for the volunteer labor and didn't anticipate it as a problem.

Planner Selvoski noted there are contractors who do use volunteers. Councilmember Loo was concerned the volunteer clause might cause the price to actually be higher. She wanted the cost of volunteers broken out as a separate cost line item.

Councilmember Stolzmann said there was a cost basis from the bids from last time without volunteers. She supported the RFP as is. Mayor Muckle agreed.

Mayor Pro Tem Lipton asked about the cabins being assigned to the Museum. He wondered if they would actively be used and if that could trigger ADA issues.

Director Zuccaro noted the Miner's Field was chosen as a good location for public access. The Museum is excited to have them and will look at how they might use them for programming. City Manager Balser noted there would be conversation about how to use them in the future.

Mayor Pro Tem Lipton asked if future use would affect any permitting in moving and reconstructing them. Director Zuccaro noted that would have to be developed and if there would be any barriers to having them available for public use. Building code compliant plans could be requested.

Councilmember Maloney asked about the volunteer phrase in the RFP. He liked the idea but was hesitant now seeing it in writing and wondered about the number of contractors willing to bid on this.

Councilmember Stolzmann felt the discussion on these cabins has been mixed. This could be a great project with some volunteers. There had been a contract before that was terminated. She wanted to give clear direction.

Councilmember Loo noted the contract presented before was now nearly a year old and construction costs have gone up. She wanted a separate line item to see volunteer cost. She thought there would be more bids if there was not a requirement to use volunteers.

Motion: Mayor Muckle moved to approve the staff recommended RFP, Councilmember Stolzmann seconded.

Mayor Muckle noted he felt this type of project with volunteers was not that unusual and contractors who do historic restoration are familiar with using volunteers.

Director Zuccaro noted the last bids were received when we didn't know where the cabins were going to go. He stated the request for proposal could be out there for a longer period for bids.

Mayor Pro Tem Lipton felt the volunteers would likely be used at the end of the project. He wanted to put out the proposals and see what the response is. He suggested having criteria for any volunteer group comparable to the professionals. Director Zuccaro noted any volunteer group would have to meet the same criteria.

Motion Amendment: Mayor Pro Tem Lipton suggested a friendly amendment that the cost proposal, Section E include a line item cost for the volunteer portion of the project.

Mayor Muckle accepted the friendly amendment and as did seconder Councilmember Stolzmann.

Motion passed by unanimous roll call vote.

**ORDINANCE NO. 1779, SERIES 2019 – AN ORDINANCE ADOPTING A NEW SIGN CODE FOR THE CITY OF LOUISVILLE – 2ND READING, PUBLIC HEARING
(advertised *Daily Camera* 7/28/19) *continued from 9/3/19***

City Attorney Kelly introduced the ordinance by title and noted the public hearing was originally opened on September 9, 2019 and continued to October 15, 2019.

Mayor Muckle re-opened the public hearing.

Senior Planner Ritchie restated why a new sign code is being done. It will consolidate a number of existing documents. Recent Supreme Court rulings revised how signs can be regulated relating to time, place and manner.

The Sign Code is arranged in Sections. Section 1 – General Provisions, Section 2 – Approval Procedure, Section 3 – General Regulations, Section 4 – Permanent Signs and Section 5 - Temporary Signs.

Ritchie reviewed the questions and changes made by Council at the September 3 meeting.

- Have any regulations specific to marijuana related signs been challenged
 - Staff and legal counsel are not aware of any legal challenges.

- Move the definitions to the front section of the Sign Code.
 - Staff moved this section to the front at the direction of Council.
- Section 4.8. Review and update mural language for clarity
 - Staff revised the language for clarity.
- Section 5.5. Is it possible to include a cap on residential yard signs
 - A reasonable cap is allowed, staff revised to allow a maximum of 6.
- Section 1.2. Is it preferable to amend this section to read “Federal and State constitutional guarantees”, rather than “1st Amendment guarantees”
 - Staff and legal counsel reviewed this question and revised to read as such.
- Section 1.3.5. Is this necessary or can it be removed
 - Staff and legal counsel believe it is not necessary and removed the section.
- Section 1.3.2. Is the use of the term, “More restrictive shall apply” problematic with respect to content related concerns
 - This is within the City’s authority to regulate time, place, and manner.
- Section 4.11.b. Wall sign height for signs oriented to US 36 was increased from 50% to 100%.
- Section 4.5. Window sign illumination standard was revised to expand the types of allowed illumination.
I
- Section 2.2.4. Temporary decorative exemption – removed content based language
- Definition of mural updated to provide clarity and administration authority
- Staff made numerous minor grammatical edits throughout the document.
- Temporary yard signs in the right-of-way.
 - Staff and legal counsel recommend this not be permitted. Specific concerns include:
 - Difficult to ensure equal treatment and enforcement
 - Public may not understand offensive or graphic signs cannot be removed, and staff may be pressured to remove

- Limitations on number and placement of signs in certain areas would be difficult to enforce. Some areas could experience a high volume or repetitive number of signs.
- If City Council is inclined to allow temporary signs in right-of-way, staff recommends these considerations;
 - not be located within a vision clearance area
 - not be located within medians
 - not be located within right-of-way that is adjacent to property zoned Open Space
 - only be permitted between 10:00 am on Saturdays through 4:00 pm on Sundays

Ritchie stated staff recommends approval.

Gerald Dahl, legal consultant for the sign code, noted having a sign code helps define a community, safety is important, delivers method of communication for both businesses and individuals. Sign codes can regulate time, place and manner but not content because of free speech. He recommended not allowing signs in the public right of way because of the enforcement issues.

Councilmember Leh asked if homeowner associations could place no soliciting signs at the entrance. Dahl noted the government doesn't enforce private covenants.

Councilmember Keany asked about offensive signs if the City allowed signs in the public right of way. Dahl noted if you allow it, you do turn it into a public forum. The compelling governmental interest bar would be hard to reach.

Councilmember Keany asked about some signs downtown. Ritchie noted staff has been working with property owners on signs that will not be in compliance. Councilmember Keany was concerned about unintended consequences; posters for instance, impacted by the amount of signage allowed. Ritchie noted there would be temporary sign code allowance for this type of signage. Staff recently reviewed downtown window signs and most are in compliance.

Mayor Muckle called for public comments two times and hearing none closed the public hearing.

Motion: Councilmember Loo moved to approve Ordinance No. 1779, Series 2019, seconded by Councilmember Keany. All in favor.

ORDINANCE NO. 1785, SERIES 2019 – AN ORDINANCE AMENDING THE BUSINESS CENTER AT CTC GENERAL DEVELOPMENT PLAN REGARDING ALLOWED USES AND DEVELOPMENT STANDARDS ON LOT 2, THE BUSINESS CENTER AT CTC REPLAT E AND LOT 6, BLOCK 1, THE BUSINESS CENTER AT CTC LOCATED AT

**1411 AND 1443 SOUTH ARTHUR AVENUE – 1st READING, SET PUBLIC HEARING
11/4/19**

City Attorney Kelly introduced the ordinance by title. Mayor Muckle moved to approve this on first reading, send out for publishing and set the public hearing for November 4, 2019, seconded by Councilmember Maloney.

Voice vote, all in favor.

CITY ATTORNEY'S REPORT

No report.

**COUNCIL COMMENTS, COMMITTEE REPORTS, AND IDENTIFICATION OF FUTURE
AGENDA ITEMS**

City Manager Balser asked Council about adding an executive session to the November 4 meeting.

Mayor Muckle moved to start the November 4, 2019 meeting at 6:30 PM and add an executive session at the end, seconded by Councilmember Keany. All in favor.

Councilmember Keany noted there would be a Sustainability Board meeting tomorrow and the Youth Advisory Board met and elected officers for this year. Councilmember Leh thanked Councilmember Keany for his work with the Youth Advisory Board.

ADJOURN

Members adjourned at 9:10 pm.

Robert P. Muckle, Mayor

Meredyth Muth, City Clerk